

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRETT MICHAEL PEPPER, as next friend for M.P.,
a minor,

Plaintiff,

CASE NO. 1:20-CV-00583

HON. JANET T. NEFF

v

EDWARDSBURG PUBLIC SCHOOLS, RYAN
MARKEL, KATIE VANBELLE, CODY ADKINS,
DWAYNE ADKINS, and ~~FRANCES CORDELL~~,

Defendants.

Matthew L. Wikander (P65160)
Charissa C. Huang (P75501)
SMITH HAUGHEY RICE & ROEGGE
Attorneys for Plaintiff
100 Monroe Center, N.W.
Grand Rapids, MI 49503
616-774-8000
mwikander@shrr.com
chuang@shrr.com

Justin L. Cole (P68139)
Kenneth Horjus (P52766)
SECREST & WARDLE
Attorneys for Defendant Cody Adkins
2025 E. Beltline Ave., SE, Ste. 600
Grand Rapids, MI 49546-7673
(616) 285-0143
jcole@secrestwardle.com

Mark Ostrowski (P49761)
Jessica Marie Stark (P80647)
KLUCZYNSKI GIRTZ & VOGELZANG
Attorneys for Defendants EPS, Ryan Markel &
Katie Vanbelle
3033 Orchard Vista Drive, SE, Ste. 308
Grand Rapids, MI 49546-7077
(616) 459-0556
marko@kgvlaw.com
jesstark@kgvlaw.com

James A. Crocker (P74119)
KOPKA PINKUS DOLIN, PC
Attorneys for Defendant Dwayne Adkins
190 Monroe Avenue, Ste. 400
Grand Rapids, MI 49503
(248) 324-2620
jacrocker@kopkalaw.com

**JOINT MOTION FOR APPROVAL OF SETTLEMENT
AGREEMENTS**

The parties, through their counsel, **SMITH HAUGHEY RICE & ROEGGE**, **KLUCZYNSKI GIRTZ & VOGELZANG**, **SECREST & WARDLE**, and **KOPKA PINKUS DOLIN, PC**, and pursuant to

this Court's Order, ECF No. 72, move the Court to approve the settlements reached in this case.

In support of this Motion, the parties state as follows:

1. Plaintiff has brought claims against defendants Edwardsburg Public Schools (“EPS”), Edwardsburg High School Principal, Ryan Markel and Behavioral Specialist, Katie VanBelle pursuant to Title IX, 20 U.S.C. § 1681(a), 42 U.S.C. § 1983, Michigan’s Elliott-Larsen Civil Rights Act, MCL § 37.2402, et seq., and the First Amendment.

2. Plaintiff has brought claims against defendant Cody Adkins of assault and battery, intentional infliction of emotional distress, defamation, and negligence.

3. Plaintiff has brought claims against defendant Dwayne Adkins of negligent supervision and violation of MCL § 600.2931.

4. All claims against former defendant Frances Cordell were previously dismissed by this Court on September 16, 2021 (ECF No. 60).

5. The parties engaged in voluntary facilitative mediation, during which plaintiff negotiated a settlement with defendants Cody Adkins and Dwayne Adkins. Shortly after the mediation, plaintiff and defendants EPS, Katie VanBelle, and Ryan Markel, also negotiated a confidential settlement.

6. MCR 2.420 governs the procedure to be followed for the entry of a consent judgment, a settlement, or a dismissal pursuant to settlement in an action brought for a minor or a legally incapacitated individual person by a next friend, guardian, or conservator. MCR 2.420(A). Pursuant to MCR 2.420(B), this Court shall “pass on the fairness” of a settlement in an action brought for a minor. Attached as **Exhibit 1** is the Confidential Settlement And Release Agreement with defendants Cody Adkins and Dwayne Adkins. Attached as **Exhibit 2** is the Settlement

Agreement and General Release with defendants EPS, Katie VanBelle, and Ryan Markel. The parties submit that the settlements reached between plaintiff and defendants are fair.

7. MCR 2.420(B)(2) additionally provides “[i]f the next friend, guardian, or conservator is a person who has made a claim in the same action and will share in the settlement or judgment of the minor or legally incapacitated individual, then a guardian ad litem for the minor or legally incapacitated individual must be appointed by the judge before whom the action is pending to approve the settlement or judgment.” In this case, Brett Pepper, M.P.’s father, has not made his own claim in the same action, and Mr. Pepper will not share in the settlements reached with defendants and M.P. No other individual will share in the settlements for the minor M.P. As such, pursuant to MCR 2.420(B), this Court is not required to appoint a guardian ad litem in order to approve the settlements.

8. Plaintiff, M.P., is turning 18 years of age within a matter of months, on June 27, 2022. As such, to preserve settlement funds until M.P. reaches the age of majority, plaintiff requests that this Court approve and order that settlement payments to M.P. be temporarily held in plaintiff’s attorneys’ IOLTA trust account pending her 18th birthday on June 27, 2022, at which time plaintiff’s attorneys shall disburse the settlement payments to M.P. The parties agree that defendants shall bear no responsibility for any settlement funds following defendants’ payment and delivery of the settlement funds to be received on behalf of plaintiff by plaintiff’s attorneys.

WHEREFORE, the parties request that the Court enter an Order:

- a. Approving the settlement between plaintiff and defendants EPS, Katie VanBelle, and Ryan Markel;
- b. Approving the settlement between plaintiff and defendants Cody Adkins and Dwayne Adkins; and

- c. Ordering that the settlement payments to M.P. be temporarily held in plaintiff's attorneys' IOLTA trust account, pending M.P. reaching 18 years of age on June 27, 2022, at which time plaintiff's attorneys shall disburse the settlement payments to M.P.

Respectfully submitted,

Date: February 4, 2022

By: Charissa C. Huang

Matthew L. Wikander (P65160)
Charissa C. Huang (P75501)
Smith Haughey Rice & Roegge
Attorneys for Plaintiff
100 Monroe Center, N.W.
Grand Rapids, MI 49503
616-774-8000
chuang@shrr.com

Date: February 4, 2022

By: Mark Ostrowski (with permission)

Mark Ostrowski (P49761)
Jessica Marie Stark (P80647)
KLUCZYNSKI GIRTZ & VOGELZANG
Attorneys for Defendants EPS, Ryan Markel
& Katie Vanbelle
3033 Orchard Vista Drive, SE, Ste. 308
Grand Rapids, MI 49546-7077
(616) 459-0556
marko@kgvlaw.com

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By: Justin L. Cole (with permission)

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SECREST & WARDLE
Attorneys for Defendant Cody Adkins
2025 E. Beltline Ave., SE, Ste. 600
Grand Rapids, MI 49546-7673
(616) 285-0143
jcole@secrestwardle.com

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By: James A. Crocker (with permission)

James A. Crocker (P74119)

KOPKA PINKUS DOLIN, PC

Attorneys for Defendant Dwayne Adkins

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jacrocker@kopkalaw.com